

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

KIRT D. ROBINSON,

Plaintiff,

v.

MR. NAGEL, et al.,

Defendants.

Case No. 3:13-cv-00422-MMD-WGC

ORDER ADOPTING AND ACCEPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
WILLIAM G. COBB

Before the Court is the Report and Recommendation of United States Magistrate Judge William G. Cobb (dkt. no. 21) ("R&R") relating to defendant Bobbi Paulsen's Motion to Dismiss; or in the Alternative, Motion for Summary Judgment (dkt. no. 8). No objection to the R&R has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to

1 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
2 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
3 view that district courts are not required to review "any issue that is not the subject of an
4 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
5 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.
6 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
7 which no objection was filed).

8 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
9 determine whether to adopt Magistrate Judge Cobb's R&R. The Magistrate Judge
10 recommended that Paulsen's Motion should be granted because Plaintiff has failed to
11 exhaust his administrative remedies before bringing claims against Paulsen. Upon
12 reviewing the R&R and underlying briefs, this Court finds good cause to adopt the
13 Magistrate Judge's R&R in full.

14 It is therefore ordered, adjudged and decreed that the Report and
15 Recommendation of Magistrate Judge William G. Cobb (dkt. no. 21) is accepted and
16 adopted in its entirety. Defendant Bobbi Paulsen's Motion to Dismiss; or in the
17 Alternative, Motion for Summary Judgment (dkt .no. 8) is granted. Plaintiff's claims are
18 dismissed without prejudice as to Paulsen for failure to exhaust his administrative
19 remedies before filing suit.

20 In its Order entered on December 17, 2014, the Court granted Plaintiff leave to
21 amend his complaint to clarify the other defendants that he wished to name in this action
22 (one of two "Mr. Nagel" and a defendant identified as "Head Nurse Jane Doe I"). (Dkt.
23 no. 20.) Plaintiff has failed to file an amended complaint within the specified time period.
24 The Court therefore instructs the Clerk to close this case.

25 DATED THIS 2nd day of February 2015.

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28 MIRANDA M. DU
UNITED STATES DISTRICT JUDGE